

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Case No.: 3:19-cv-00101-RCJ-WGC

JAMES MCDANIEL,

Plaintiff

v.

JAMES DZURENDA, et. al.,

Defendants

Order

Re: ECF No. 74

Defendants filed their motion for summary judgment (ECF Nos. 66, 66-1 to 66-10, 68-1, 68-2) on October 8, 2021. Plaintiff did not timely file a response. On November 17, 2021, the court gave Plaintiff an additional 30 days, until December 17, 2021, to file a response to the motion for summary judgment. (ECF No. 73.) Plaintiff did not timely file a response.

On January 7, 2022, Plaintiff filed a “motion to notify” the court that caseworker Villatoro at HDSP told Plaintiff on October 28, 2021, that she and the warden had his legal mail and would not give it to him.

It is curious that Plaintiff claims that this occurred on October 28, 2021, but Plaintiff waited until January 7, 2022, to file anything with the court. A motion for summary judgment would not be considered confidential legal mail as it is a publicly filed document. Instead, the motion for summary judgment was electronically filed and should have been delivered to Plaintiff by the HDSP law librarian.

Nevertheless, Defendants shall immediately re-serve the motion for summary judgment on Plaintiff and the Deputy Attorney General shall ensure that Plaintiff receives the motion and file a proof of service within **7 days** of the date of this Order. Plaintiff has **21 days** from the date

1 of this Order to file his response to the motion. If a response is not timely filed, the court will
2 treat the motion as unopposed. Defendants will have **14 days** from the date they are served with
3 the response to file their reply brief.

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5 **IT IS SO ORDERED.**

6 Dated: January 12, 2022

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8 William G. Cobb
9 United States Magistrate Judge
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